

**Testimony on Behalf of the Michigan Association for Children
with Emotional Disorders**

In Support of House Bill 5676

Before the House Judiciary Committee
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Chairman Mark Meadows

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Chairman Meadows and members of the House Judiciary Committee, thank you for the opportunity to submit written testimony in support of House Bill 5676 that will accomplish necessary and long overdue public defense reform in Michigan. The bill, if enacted, will remedy the travesties—caused by a grossly under-funded public defense system, inconsistent availability of qualified and competent counsel throughout the state, lack of statewide coordination of research and resources and inequities in appointment of counsel due to political interference—that occur daily to defendants in Michigan criminal courts.

The Michigan Association for Children with Emotional Disorders (**MACED**) is of the strong belief that Michigan is in a right to counsel crisis. The Sixth Amendment right of all individuals – including children – to effective defense representation is not being upheld. To bring about an efficient and ethical public defense system in Michigan that ensures a future for all of Michigan’s children, adequate state funding and the establishment of and adherence to the Eleven Principles of a Public Defense Delivery System¹ is necessary.

Background:

Since the group’s formation in 1957, the Michigan Association for Children with Emotional Disorders has helped families statewide dealing with the difficulties they face each day when there is a child in the family with an emotional disorder. The mission of MACED is as critical today as ever: To help families find educational, mental health, and other services for children with emotional disorders as well as to encourage and enhance the public’s understanding and support of these children, their families and the services they desperately need.

Mental health and juveniles:

For the past several years, MACED staff has assisted with cases of children with emotional disorders who are charged with offenses in the juvenile justice system. The number of children in this predicament has increased dramatically over the past several years. More and more children with untreated serious emotional disorders whose symptoms are mistaken for delinquent behavior are relegated to the juvenile justice system and often committed to the custody of the Department of Human Services.

Reliable data show that 65% of children committed to these facilities through the juvenile justice system suffer from a diagnosable mental illness and that 40% of these children have a serious emotional disorder or mental illness. These children are extremely vulnerable to physical and sexual assault, self-mutilation and suicide. All juvenile justice placements practice “positive peer culture” that is often injurious to children with disabilities, unable to conform to rigorous point systems. Mental health treatment is often not provided in these facilities. In addition to the staggering number of children with serious emotional disorders (“SED”) in juvenile justice facilities, there are currently scores of children with SED in state prisons. State prisons are bereft of appropriate mental health treatment for children and lack adequate physical facilities for minors. As a result, these children are subject to lengthy periods of administrative segregation or placement in cells for 23 out of every 24 hours.

¹ Adopted by the State Bar of Michigan Representative Assembly, April 2002

This epidemic of children with severe illness committed to correctional facilities is due in large part to the failing public defense system in Michigan. Many of the children prosecuted in the juvenile justice system or who are waived to adult status receive inadequate representation or often waive counsel under pressure from family

Juvenile defense:

“Juvenile justice representation is considered in many ways as an afterthought all across the state of Michigan. As inadequate as adult representation is, the treatment of kids in delinquency proceedings is far worse.”

-David Carroll, National Legal Aid & Defender Association, “A Race to the Bottom: Speed & Savings over Due Process – A Constitutional Crisis”

All children accused of delinquent acts have a right to be represented by an attorney in their proceedings. However, the majority of children accused in Michigan are either denied counsel, waive counsel without full understanding, or are represented by counsel working in a system that fails to provide the resources and training necessary to provide an effective representation. Many juvenile defense attorneys have caseloads above the national standards. Most are forced to meet their clients only minutes before court hearings because of this caseload problem.

One of MACED’s core justice projects focuses on the legal representation provided to juveniles with emotional disorders or mental illness. A core recurring problem is the lack of training in the development of mental health defenses and in adolescent development. There are no statewide training requirements for public defense attorneys, and there is little training regarding juvenile delinquency proceedings available.

Many children in the juvenile justice system could have avoided the system if only their attorneys had the time and resources to explore treatment or counseling options that are most cost effective and work to reduce recidivism.

Conclusion:

An improved public defense system in Michigan is needed to equip and train defense attorneys to more effectively address the needs of Michigan’s most vulnerable children, particularly children with emotional disorders. The Michigan Association for Children with Emotional Disorders supports a system with state funding and that meets the Eleven Principles of a Public Defense Delivery System. Thank you for your time and for considering this important issue.